

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

TROY MOORE,

Petitioner,

v.

CIVIL ACTION NO. 5:04-cv-01291

WARDEN MARTY ANDERSON,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is the petitioner's 28 U.S.C. § 2241 petition for writ of habeas corpus by a person in state or federal custody [Docket 1]. Also pending is the petitioner's Application to Proceed *in Forma Pauperis* [Docket 3].


This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court 1) deny the petitioner's Application to Proceed *in Forma Pauperis* ; and 2) dismiss the petitioner's § 2241 Application and remove this matter from the court's docket.

The petitioner has submitted written objections to the magistrate's proposed findings of fact and recommendation. Having reviewed the petitioner's objections *de novo*, the court **FINDS** that they are without merit. The court agrees with the magistrate's thorough analysis.

Accordingly, the court **ACCEPTS** and incorporates herein the findings and recommendation of the Magistrate Judge, **DENIES** the petitioner's Application to Proceed *in Forma Pauperis* [Docket 3], and **DISMISSES** the petitioner's § 2241 Application [Docket 1].

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: September 9, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE